

Message Text

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ORIGIN OES-06

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ACDA-07 NSF-01 TRSE-00 SS-15 NSCE-00 NSC-05 CIAE-00

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FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA IMMEDIATE

C O N F I D E N T I A L STATE 093120

E.O. 11652: GDS

TAGS: TECH, ENRG, CA

SUBJECT: POSSIBLE CANADIAN NUCLEAR ICEBREAKER

AMBASSADOR IS AUTHORIZED TO INFORM APPROPRIATE HIGH-
LEVEL CANADIAN OFFICIALS THAT, IN PRINCIPLE, THE EXECUTIVE
BRANCH FAVORS THE EXPORT OF U.S. COMMERCIAL MARITIME NUC-
LEAR TECHNOLOGY AND THE REQUISITE COMMERCIAL NUCLEAR STEAM
SUPPLY SYSTEM TO CANADA FOR USE IN THE PROPOSED NUCLEAR
ICEBREAKER, WHICH WE UNDERSTAND IS ENTIRELY CIVILIAN IN ITS
PURPOSE AND UNDER CIVILIAN CONTROL. WE BELIEVE THAT WE
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HAVE TAKEN A NUMBER OF SIGNIFICANT ACTIONS RECENTLY TO
SIGNAL OUR AFFIRMATIVE INTEREST IN THIS PROJECT TO THE
APPROPRIATE CANADIAN OFFICIALS. FOR EXAMPLE, THE DEPARTMENT
OF COMMERCE (MARAD) LAST FALL AUTHORIZED BABCOCK AND WILCOX

TO PRESENT A COMPLETE DESIGN PACKAGE TO THE CANADIANS FOR THEIR CONSIDERATION. AS EMBASSY IS AWARE, THIS WAS FOLLOWED BY DETAILED TECHNICAL CONVERSATIONS BETWEEN MARAD REPRESENTATIVES AND CONCERNED CANADIAN OFFICIALS.

EMBASSY SHOULD RECOGNIZE, HOWEVER, THAT THE PROCEDURAL STEPS THAT WOULD HAVE TO BE TAKEN WERE B&W SELECTED, ARE SOMEWHAT UNIQUE IN CHARACTER AND WE, THEREFORE, CANNOT GIVE THE CANADIANS ANY ABSOLUTE "GUARANTEES" BEFOREHAND THAT THE VARIOUS LICENSES AND APPROVALS INEVITABLY WILL BE ISSUED.

WE CAN, HOWEVER, AFFIRM AT THIS TIME THAT THE EXECUTIVE BRANCH WOULD BE PREPARED TO WORK COOPERATIVELY WITH THE CANADIAN GOVERNMENT AND THE U.S. ORGANIZATIONS INVOLVED TO IMPLEMENT THE PROJECT EXPEDITIOUSLY AS POSSIBLE IF CANADA ELECTS TO PURCHASE THE NUCLEAR PROPULSION PLANT FROM THE U.S.

AS WE UNDERSTAND IT, UNDER THE CANADIAN APPROACH, THE VESSEL HULL WOULD BE BUILT IN CANADA BUT THE REACTOR WOULD BE INSTALLED AND TESTED FOR RELIABILITY AND PERFORMANCE IN THE TERRITORY OF THE SUCCESSFUL REACTOR VENDOR. IF A U.S. FIRM WERE SELECTED, UNDER U.S. LAW (SECTION 103 (D) OF THE ATOMIC ENERGY ACT), THE REACTOR WOULD HAVE TO BE LICENSED FOR CONSTRUCTION AND OPERATION TO A U.S. ENTITY (I.E., NOT "OWNED, CONTROLLED OR DOMINATED" BY A NON-U.S. PERSON). FURTHER, IN ORDER TO CONSTRUCT, TEST AND OPERATE THE REACTOR, THE U.S. VENDOR WOULD BE REQUIRED TO SECURE A CONSTRUCTION AND OPERATING LICENSE FROM NRC.

THIS PROCEDURE WOULD SERVE TO INSURE THAT THE REACTOR MET ENVIRONMENTAL EVALUATIONS THAT ARE APPLIED TO DOMESTIC NUCLEAR FACILITIES IN THE UNITED STATES. (IN OUR VIEW, THIS EVALUATION PROCESS WOULD BE OF VALUE TO THE CANADIAN GOVERNMENT IN ASSURING THAT HIGH REGULATORY STANDARDS FOR THE CONSTRUCTION AND OPERATION OF THE NUCLEAR POWER PLANT HAD BEEN MET.)

ALSO, PRIOR TO DELIVERY OF THE REACTOR AND FUEL TO CANADA, THE NRC WOULD HAVE TO ISSUE AN EXPORT LICENSE BASED ON A FINDING THAT THE EXPORT IS UNDER THE TERMS OF AN AGREEMENT FOR COOPERATION AND WOULD NOT BE INIMICAL TO THE COM-
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MON DEFENSE AND SECURITY. THE MAJOR FACTOR IN GRANTING SUCH A LICENSE WOULD BE A CAREFUL ASSESSMENT OF THE INTERNATIONAL SAFEGUARDS IMPLICATIONS OF THE TRANSACTION. IT IS OUR UNDERSTANDING THAT IN EVALUATING EXPORT APPLICATIONS, OTHER EXPORTING STATES WILL TAKE INTO ACCOUNT SAFEGUARDS FACTORS SUBSTANTIALLY COMPARABLE TO THOSE TAKEN INTO ACCOUNT BY NRC.

AS YOU UNDOUBTEDLY RECOGNIZE, NO REGULATORY BODY CAN ASSURE A POTENTIAL APPLICANT THAT A LICENSE WILL BE ISSUED BEFORE THE LICENSE APPLICATION AND REQUISITE SUPPORTING DATA HAVE BEEN RECEIVED.

HOWEVER, AS IN THE CASE OF OTHER NUCLEAR EXPORTS, WE WOULD EXPECT NRC TO REQUEST THE VIEWS OF THE EXECUTIVE

BRANCH (AS COORDINATED BY THE STATE DEPARTMENT) ON THE PROPOSED ARRANGEMENT AND TO GIVE APPROPRIATE WEIGHT TO THE EXPRESSED EXECUTIVE BRANCH RECOMMENDATION ON THE MATTER. IN THIS REGARD, THE EMBASSY WILL RECALL THAT IT IS THE POLICY OF THE UNITED STATES GOVERNMENT TO ENCOURAGE UNITED STATES FIRMS AND INDIVIDUALS TO PARTICIPATE IN MARITIME (CIVIL) NUCLEAR PROPULSION PLANT PROJECTS IN FRIENDLY FOREIGN COUNTRIES PROVIDED THAT UNITED STATES NAVAL NUCLEAR PROPULSION INFORMATION IS NOT DISCLOSED (DEPARTMENT OF COMMERCE BULLETIN NUMBER 910). (IN THIS CONNECTION, IF THE REACTOR WERE INSTALLED IN A U.S. FACILITY IT OBVIOUSLY WOULD HAVE TO BE ARRANGED IN SUCH A WAY AS TO PRECLUDE CANADIAN ACCESS TO AREAS WHERE U.S. NAVAL NUCLEAR PROPULSION WORK IS UNDERWAY. WE WOULD ALSO WANT TO RECEIVE A FORMAL ASSURANCE FROM THE GOC, AT THE APPROPRIATE TIME, THAT THE PROJECT IS ENTIRELY CIVILIAN IN ITS PURPOSE AND UNDER CIVILIAN CONTROL. THIS SHOULD BE PRO FORMA IF THE INFORMATION WE ALREADY HAVE ON THE PROJECT IS CORRECT.) WE ARE CONFIDENT THAT NRC WOULD GIVE ANY REQUEST FOR A LICENSE VERY PROMPT CONSIDERATION TAKING INTO ACCOUNT THE AFOREMENTIONED GENERAL POLICY, THE KNOWN EXECUTIVE BRANCH ATTITUDES FAVORING THIS COOPERATION, AND THE FACT THAT, AS AN NPT PARTY, CANADA WOULD BE PLACING THE FACILITY UNDER FULL IAEA SAFEGUARDS. MOREOVER, WE UNDERSTAND THAT MARAD ALREADY HAS BEEN IN COMMUNICATION WITH NRC ON LICENSING THE B&W DESIGN FOR POTENTIAL DOMESTIC MARITIME APPLICATIONS AND THAT NRC HAS DEVELOPED THOROUGH FAMILIARITY WITH THE DESIGN.

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MARAD ADVISES THAT CANADA IS INTERESTED IN ASSURING THAT THE PROPOSED OPERATORS OF THE VESSEL AS WELL AS CANADIAN REGULATORY AUTHORITIES CAN RECEIVE THE REQUISITE TRAINING OPPORTUNITIES WITHIN THE U.S., AND WE ARE CONFIDENT THAT THE DESIRED ARRANGEMENTS COULD BE WORKED OUT. WHILE WE VIEW THIS AS BASICALLY A COMMERCIAL VENTURE UNDER WHICH THE U.S. VENDOR WOULD PROVIDE REQUISITE PERFORMANCE GUARANTEES, WE ARE NOT OPPOSED TO SEEING THE USG INVOLVE ITSELF IN SUCH SUPPORTIVE NON-MILITARY TRAINING OPPORTUNITIES.

WE ALSO UNDERSTAND THAT B&W IS HOPING THAT MARAD AND THE CANADIAN GOVERNMENT WOULD BE PREPARED TO ABSORB SOME OF THE R&D "FIRST OF A KIND" EXPENSES ASSOCIATED WITH THE VENTURE AND THAT THIS DESIRE ALREADY HAS BEEN ALLUDED TO IN SOME OF THE PRELIMINARY CONVERSATIONS THAT HAVE OCCURED. WE CANNOT, OF COURSE, ASSURE THAT FUNDS WILL BE AVAILABLE TO MARAD FOR THIS PURPOSE AT THE PRESENT TIME.

WITH RESPECT TO WHETHER OUR CIVILIAN AGREEMENT FOR COOPERATION WITH CANADA IS SUFFICIENTLY BROAD IN SCOPE TO PERMIT THE EXPORT OF THE REACTOR AND FUEL FOR AN APPLICATION OF THIS KIND, WE NOTE THAT THE AGREEMENT DOES NOT SPECIFICALLY PROHIBIT SUCH AN EXPORT PROVIDED THAT THE

PEACEFUL USES GUARANTEE AND OTHER GUARANTEES CAN BE MET. IT WOULD APPEAR, HOWEVER, THAT THE CONTRACTING PARTIES DID NOT APPEAR TO CONTEMPLATE THIS TYPE OF COOPERATION UNDER THE AGREEMENT AT THE TIME IT WAS WRITTEN. IN LIGHT OF THIS, IT MAY BE PRUDENT TO AMEND THE AGREEMENT TO ADDRESS THOSE QUESTIONS (E.G., CONDITIONS GOVERNING FOREIGN PORT-CALLS) RAISED BY THE ASSISTED VESSEL OPERATING ON THE HIGH SEAS. THIS IS A MATTER, HOWEVER, THAT WE STILL HAVE UNDER REVIEW AND WE WOULD APPRECIATE LEARNING OF ANY INFORMAL VIEWS THE CANADIANS MAY HAVE EXPRESSED CONCERNING THE NEED OR SCOPE OF ANY SUCH AMENDMENT. IF B&W IS SELECTED, AND IF AN AMENDMENT IS JUDGED BY OUR GOVERNMENTS TO BE DESIRABLE, WE BELIEVE IT COULD BE PROCESSED EXPEDITIOUSLY WITHIN THE CONSTRAINTS OF OUR STATUTORY RESPONSIBILITIES (60 DAY WAITING PERIOD BEFORE CONGRESS, ETC.). WITH RESPECT TO INDEMNIFICATION, THE PRICE-ANDERSON ACT WAS RECENTLY AMENDED TO EXTEND ITS PROTECTION TO OFF-SHORT STATIONARY NUCLEAR POWER PLANTS AND TO THE TRANSPORTATION OF NUCLEAR MATERIALS FROM ONE POINT IN THE U.S. CONFIDENTIAL

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TO ANOTHER, EVEN IF PART OF THE ROUTE LIES OUTSIDE OF THE UNITED STATES. IT DOES NOT APPLY AS A GENERAL RULE, HOWEVER, TO U.S. NUCLEAR POWERED MERCHANT SHIPS WHILE OUTSIDE THE TERRITORIAL WATER OF THE U.S., AND CLEARLY WOULD NOT INDEMNIFY THE UNITED STATES CONTRACTORS ONCE THE POLAR-VII DEPARTS THE U.S. WATERS. BEGIN FYI. WE UNDERSTAND THAT THE FEDERAL REPUBLIC OF GERMANY HAS LEGISLATION WHICH APPLIES TO ITS NUCLEAR POWERED MERCHANT SHIPS OPERATING ANYWHERE IN THE WORLD. END FYI. LEGISLATION EXTENDING THE PRICE-ANDERSON ACT TO COVER U.S. NUCLEAR POWERED SHIPS HAS BEEN DRAFTED BY MARAD BUT IS STILL IN PROCESS AND HAS NOT BEEN ENACTED.

IN THE CASE OF THE POLAR-VII ICEBREAKER, WE UNDERSTAND THAT B&W WOULD HOPE TO OBTAIN AN AGREEMENT WITH THE CANADIAN GOVERNMENT PROVIDING B&W WITH APPROPRIATE PROTECTION FROM LIABILITY. WE HAVE BEEN ADVISED THAT THE CANADIAN GOVERNMENT HAS ENTERED INTO AGREEMENTS OF THIS SORT WITH U.S. VENDORS IN RESPECT TO ITS DOMESTIC NUCLEAR POWER PLANTS.

FINALLY, AS THE EMBASSY IS AWARE, AS A RESULT OF CAPACITY LIMITATIONS, WE HAVE TEMPORARILY SUSPENDED ENRICHMENT SERVICES SUPPLY CONTRACTING FOR BOTH DOMESTIC AND FOREIGN CUSTOMERS. WE ARE CONFIDENT, HOWEVER, THAT AFTER THE PASSAGE OF THE NUCLEAR FUEL ASSURANCE ACT, THAT THE U.S. WILL ACTIVELY REENTER THE SUPPLY PICTURE. MOREOVER, WE FORESEE NO REASON, IN PRINCIPLE, WHY CANADA SHOULD NOT BE ABLE TO OBTAIN THE SEPARATIVE WORK FROM ANOTHER SUPPLIER. ALTERNATIVELY, IF B&W IS SELECTED, THE GOC MAY WISH TO EXPLORE THE POSSIBILITY OF PURCHASING EXCESS SEPARATIVE WORK FROM ONE OF THE UTILITIES WHO HAVE FIRM ERDA CONTRACTS UNDER WHICH THERE IS MATERIAL EXCESS TO

THE UTILITIES'NEEDS.

USG WOULD BE PREPARED TO HOLD FURTHER BILATERAL
DISCUSSIONS WITH THE GOC ON THIS GENERAL QUESTION IF
EMBASSY AND THE GOC PERCEIVE THAT SUCH A STEP WOULD BE
WARRANTED AND IF THE CANADIANS STILL APPEAR OPEN TO
EXPLORING THE U.S. ALTERNATIVE. ROBINSON

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